

TO: Zoning Board of Adjustment
FROM: Community Development Department

DATE: August 15, 2017

RE: **CASE #BA-17-004**
REQUEST: A variance from Section 15.09.050 *Site Development Regulations for the R-2/Two Family Residential District* of the Council Bluffs Zoning Ordinance to allow for an accessory structure to be constructed with a 10 foot street side yard setback, as opposed to the required 15 feet.

APPLICABLE
CODE SECTION: **Section 15.09.050 Site development regulations**

RELIEF SOUGHT: A 5 foot variance to allow for an accessory structure to be construct 10 feet away from the street side properly line, as opposed to the required 15 feet.

LEGAL
DESCRIPTION: Lot 20, Block 5, Squire's Addition

LOCATION: 507 South 23rd Street

APPLICANT: Brenda and David Fort, 507 South 23rd Street, Council Bluffs, IA 51501

OWNER: Brenda Fort, 507 South 23rd Street, Council Bluffs, IA 51501

BACKGROUND INFORMATION – Brenda and David Fort own and reside in a house located at 507 South 23rd Street. The applicants wish to demolish an existing garage on this property in order to construct a new, larger garage that will better suit their needs. This variance is being requested because the garage that the applicants wish to construct is wider than what the buildable area would allow when the street side yard and side yard setbacks are followed as written. The applicants also wish to construct a garage that would be in line with the existing house, and utilize as much of the existing driveway as possible.

Attachment A: General Location Map
Attachment B: Applicant's Site Plan and Project Overview
Attachment C: Site Photos

CURRENT ZONING AND LAND USE – The subject property is zoned R-2/Two Family Residential District. The surrounding 500 feet is also zoned R-2/Two Family Residential District. Surrounding land uses are predominately single family dwellings.

The following exhibits show the subject property and surrounding area:

Exhibit A: Aerial view of the subject property and surrounding area (looking east)



Exhibit B: View of the property looking southeast



Exhibit C: View of property looking to the north



CITY DEPARTMENTS AND UTILITIES – All City departments and local utility providers were notified of the requested variance. The following comments were received:

- Mid-American Energy stated that there are overhead electric facilities located in the alley crossing the applicant's property. The applicant should contact Mid-American Energy Construction Services to verify that the new construction will meet current standards and codes.
- The Public Works Department of the City of Council Bluffs stated that that the 35'x35' sight triangle (as required in Section 15.24.040 (1) (D)) shall be maintained, and the driveway is required to be hard surfaced (concrete or asphalt).

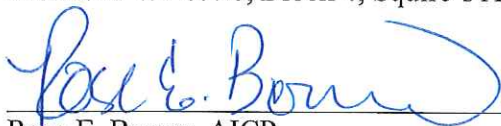
NEIGHBORHOOD RESPONSE – All property owners within 200 feet of the subject property were notified of the requested variance. No comments have been received as of the date of this report.

COMMENTS - Evidence must be presented to demonstrate that a literal enforcement of the Ordinance will create a hardship for which relief is necessary. The Board of Adjustment shall approve a variance to grant relief when 'unforeseen applications of this Ordinance...create particular hardships'. No variance shall be granted unless the Board of Adjustment makes findings of fact based on the standards and conditions that follow. A variance less than requested may be granted by the Board when the record supports the applicant's right to some relief, but not to the entire relief requested. (§15.02.080 – *Variances*)

1. *The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity. The size, shape and topography of the property are typical of those in the general vicinity and surrounding area. The lot is substandard in size by today's regulations, as it would not meet the minimum lot width standards for the R-2/Two Family Residential District, but the lot is allowed to exist as a legal nonconformity.*
2. *Because of such disadvantage, the owner is unable to make reasonable use of the affected property. The applicant would still be able to construct a new garage on the property if the variance is not granted. A garage that is 22 feet wide would be able to meet all setbacks.*
3. *The disadvantage does not exist because of conditions created by the owner or previous owners of the property. The property was platted and the home was constructed prior to the enactment of the lot size standards and setback standards for the R-2/Two Family Residential District. While the current structures are allowed to exist, any new structures or additions are required to meet all setback requirements. County Recorder's records show the current owners purchased the property in 2015, which would have been subject to the current regulations.*
4. *Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district. Granting the variance will allow the applicant to construct an accessory structure that would be likely to fit on the parcel if it met the required width standards of today's ordinance, but neighboring property owners would otherwise not be allowed to construct a structure within the street-side yard setback.*
5. *Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance. Personal garages are a permitted accessory use in the R-2/Two Family Residential District, and many neighboring property owners have garages. While there may not be any safety hazards created by granting this variance, the public interest could be negatively impacted by allowing the encroachment of structures on to established roads.*

RECOMMENDATION

The Community Development Department recommends denial of the requested variance for property legally described as Lot 20, Block 4, Squire's Addition, based on reasons stated above.






Rose E. Brown, AICP
Planning Coordinator



Chris Meeks
Planner

CITY OF COUNCIL BLUFFS -ZONING BOARD OF ADJUSTMENT LOCATION MAP CASE # BA-17-004

Map Legend

	Subject Property
	Parcels
	Lots

2016 Aerial Photograph



Note: Entire mapped area is located in the R-2/Two Family Residential Zoning District.



Last Amended: 7/19/17



Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328.4629

DISCLAIMER

This map was prepared and compiled from various sources, including aerial photography, and is provided for informational purposes only. The City of Council Bluffs does not warrant the accuracy or completeness of the information contained on this map. The user assumes all responsibility for the information contained on this map.



Location of Proposed Variance

0 12 30
1 Inch = 25 Feet

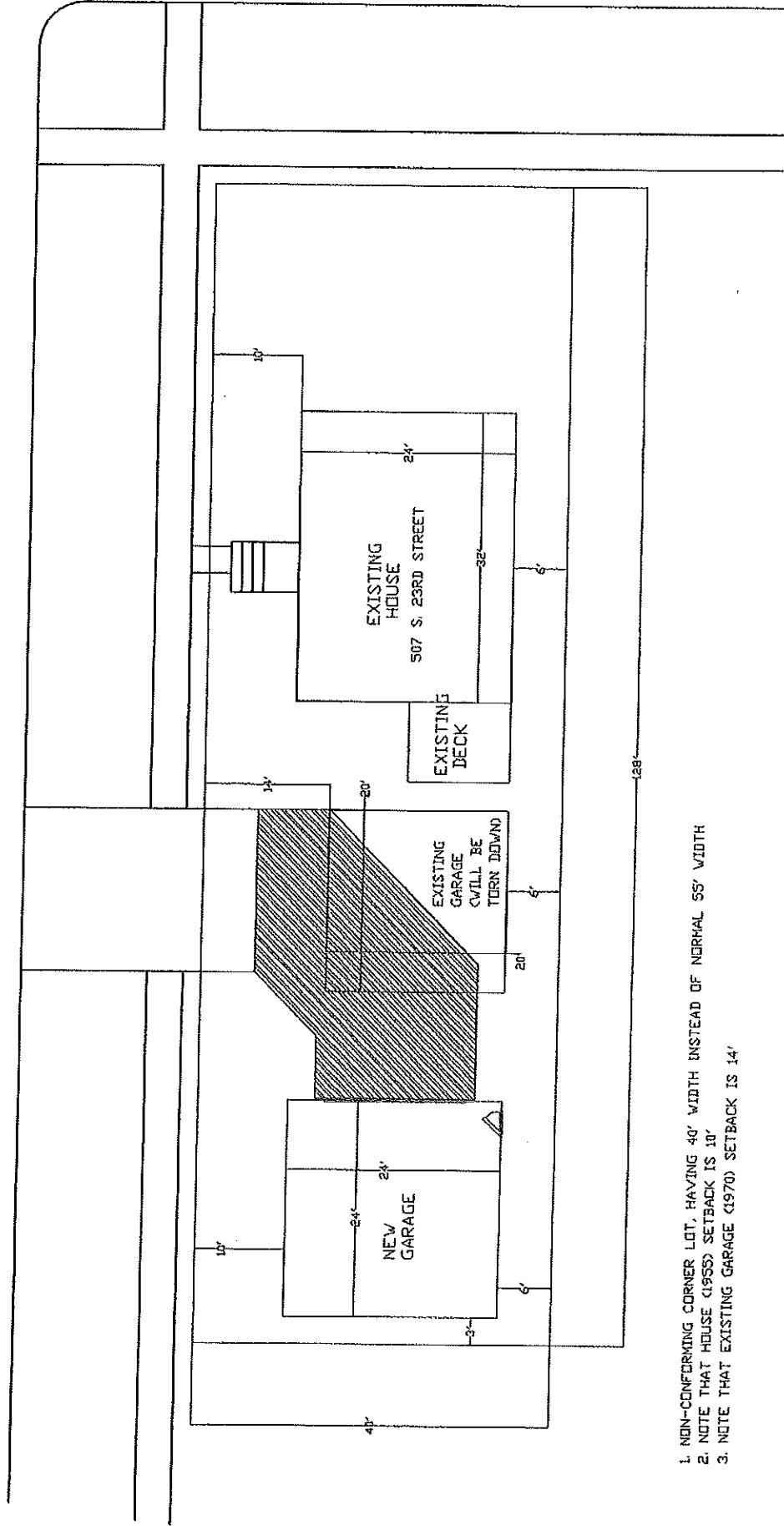
Attachment B

OVERVIEW --

EXISTING GARAGE (BUILT 1970) HAS STRUCTURAL PROBLEMS & HEAVING / CRACKED FLOORS. WE PROPOSE A NEW 24X24 GARAGE & HAVE IT POSITIONED IN-LINE WITH EXISTING 24' WIDE HOUSE. ONCE THE NEW GARAGE IS COMPLETED, THE OLD GARAGE WOULD BE REMOVED. THE ORIGINAL DRIVEWAY WOULD BE CHANGED TO CONNECT - WHICH WOULD ALLOW PARKING OUTSIDE GARAGE TO NOT BLOCK SIDEWALKS



S. 23RD STREET



1. NON-CONFORMING CORNER LOT, HAVING 40' WIDTH INSTEAD OF NORMAL 55' WIDTH
2. NOTE THAT HOUSE (1955) SETBACK IS 10'
3. NOTE THAT EXISTING GARAGE (1970) SETBACK IS 14'

5TH AVENUE

Attachment C: Site Photos



Figure 1: Front view of the subject property (Facing east/southeast)



Figure 2: View of the subject property from the north (facing south)

Figure 3: View of the subject property from the south (facing north)

